

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: : Group Art Unit: 2192
Arnold J. Daks et al. : Examiner E. B. Kiss
Serial No: 09/966,004 : Confirmation No. 4835
Filed: 08/28/001 :
Title: A COMPUTER CONTROLLED :
DISPLAY SYSTEM FOR TRACKING :
THE DEVELOPMENT OF SOFTWARE :
PRODUCTS HAVING A PLURALITY : Customer No. 32,329
OF DEVELOPMENT LINES THROUGH :
THE MONITORING OF SEQUENCES :
OF CHECKPOINTS RESPECTIVELY :
IN SAID LINES :
Date: 12/20/08 :

REPLY BRIEF ON APPEAL

Commissioner for Patents
P.O.Box 1450
Alexandria, VA 22313-1450

Sir:

This is a Reply Brief to the Examiner's Answer mailed
October 30, 2008.

In the Answer, the Examiner makes some new points which
Appellants wish to address.

Claims 1-6, 8-13, 22-27, 32-37, and 39-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over The Microsoft Project publication (hereinafter called Project) in view of Song et al. (US5,849,999).

In the Brief on Appeal, Appellants argued that while Project and Song may disclose some of the elements of the present invention, they do not either individually or in combination disclose all of the elements of the present invention. Also, the Examiner had proposed a combination of such elements which is not suggested in either reference. The Examiner's proposed combination could only be made in the light of Applicants' own teaching. This is not an appropriate basis for an obviousness rejection under 35 U.S.C 103.

The present invention provides an implementation for simultaneously monitoring of the progress of product development distributed between a plurality of developmental lines in the development of complex computer software products so that the data relative to each line is readily available and communicated to the developers working on the other lines. Accordingly, the claims of the present invention cover the combination, in tracking the development of software products, of setting up and simultaneously displaying a sequence of checkpoints in each of a plurality of developmental lines, determining which checkpoints have been reached in each developmental line and then indicating the reached checkpoints on the simultaneously displayed developmental lines.

In considering the basic reference, the Project publication, Appellants noted that it is an over 600 page text book. The Examiner has cited sections from the large publication. The Project text does provide a user with

software tools for the management of business or manufacturing projects including scheduling, assignment of tasks, allocating resources, and even bench marking which for the purpose of this discussion will be considered as check pointing. The Examiner has picked general elements from the Project text book and proposed combining such general elements, not based upon any suggestion in the Project text, but based primarily on Appellants' own teaching. Appellants noted that there are probably enough tools and routines disclosed in the cited over 600 page Project text through the use of which the system of the invention could be built. However, Appellants submitted that the cited Project text did not provide one skilled in the art with the specific guidance necessary to combine the diverse tools and routines in Project to develop Applicants' claimed invention.

In responding to this Appellants' argument, Examiner argued, from page 10 through page 11 of the Answer, that since everything in the 600 page Project reference could be found in a single Microsoft software product i.e. Project 98, then the individual elements which from the reference which Examiner proposed to combine were already in product. Thus, Examiner contended Appellants' argument that the rejection combined such elements in light of Appellants' own disclosure was invalid since the elements were already combined in the actual software product: Project 98.

What Examiner loses sight of is that in this 35 USC 103(a) rejection, the issue is whether the claimed invention is obvious over the reference publication describing the Project 98 product, and not whether the claimed invention is obvious over the actual Project 98 product in whatever form, this product may exist.

Thus, with respect to the reference, Using Microsoft Project 98, Special Edition, it is submitted that even if Examiner could argue that each of the individual elements of the present claimed invention could be found in the 600 page Product 98 reference document in various combinations, Examiner has failed to show any teaching in this reference that the individual elements could be combined so that Appellants' claimed invention would be obvious over the Project 98 reference. It is further submitted that Examiner has failed to point to any combination of elements in the Project 98 reference which would render the present claimed invention obvious to one skilled in the art.

Accordingly, it is here reiterated that, in the rejection over the Project 98 reference, Examiner has picked general elements from the Project 98 reference book and proposed combining such general elements, not based upon any suggestion the Project 98 reference book, but based primarily on Applicants' own teaching.

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Accordingly, for the reasons set forth above and for the reasons set forth in the Brief on Appeal, the Board of Appeals is respectfully requested to reverse the Final Rejection under 35 USC 103(a), and find claims 1-6, 8-13, 22-27, 32-37, and 39-41 in condition for allowance.

Respectfully submitted,

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